IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

Bail Appl..No. 6246 of 2007()

CRIME NO.710 OF 2007 OF THODUPUZHA POLICE STATION

PETITIONER : ACCUSED

VINCENT, S/O.GEORGE, AGED 32 YEARS,
RESIDING AT EDAPPANATTU HOUSE,
THEKKUMBHAGOM KARA, KARIKODE VILLAGE,
THODUPUZHA TALUK.

BY ADV. SRI.C.S.MANU

RESPONDENTS: COMPLAINANT & INVESTIGATING OFFICER

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1. STATE OF KERALA REP. BY THE SUB INSPECTOR OF POLICE, THODUPUZHA POLICE STATION, THODUPUZHA.

2. STATE OF KERALA REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6246 of 2007

Dated this the 16th day of October 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations for offences punishable under Sections 457 and 393 I.P.C. The alleged incident took place on 5/9/2007. The petitioner is a neighbour of the de facto complainant. He had allegedly gone into the room of the de facto complainant and had attempted to forcibly, under threat, rob her of a gold chain. The attempt did not succeed. The de facto complainant suffered an injury when the knife held by the accused came into contact with her face. The petitioner allegedly jumped from the first floor of the house of the de facto complainant and took to his heels. Hearing the cries of the de facto complainant, neighbours collected there. One of them had seen the petitioner escaping from the house of the de facto complainant. Crime has been registered on the next date. The name of the petitioner is shown as accused in the F.I.R registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The daughter of the de facto complainant had eloped with a friend of the petitioner. This information was received by the de facto complainant on 5/9/2007 and that is the reason why such a false complaint has been filed against the petitioner by the de facto complainant, it is alleged.

3. The application is opposed by the learned Public Prosecutor. The learned Public Prosecutor submits that there are no circumstances justifying or warranting the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I am inclined to agree with the objections raised by the learned Public Prosecutor. I find no features in this case which can justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. I agree with the learned Public Prosecutor that it is for the petitioner to appear before the learned Magistrate and seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007